

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
	:	Criminal No. 3:04-CR-373
	:	
v.	:	(KOSIK, J.)
	:	
DAVID M. RHODES,	:	
	:	
Defendant	:	Filed via ECF

GOVERNMENT'S MOTION IN LIMINE

AND NOW COMES, the United States of America, by and through counsel, THOMAS A. MARINO, United States Attorney and Todd K. Hinkley, Assistant U.S. Attorney and states:

1. The Government, through counsel, requested reciprocal discovery of evidence and exhibits possessed by the defense, which the defendant wishes to introduce at trial. The Government recently met with defense counsel for the purpose of viewing the proposed defense exhibits.

2. Counsel for the Government was shown three photographs, blown up to posterboard size (approximately 3 feet long by 4 feet wide), which the defendant intends to introduce at trial. Each of the enlarged photographs show the defendant at various personal or social occasions.

These photographs show the following:

- a. One photograph shows the defendant and his family (wife and three children), inside a church or cathedral, at a religious ceremony.
 - b. One photograph shows the defendant and his family on vacation.
 - c. One photograph shows the defendant in military uniform, apparently receiving an award from a superior officer.
 - d. One photograph shows the defendant and his wife, dancing at some type of party or celebration.
3. The Government believes that the defendant intends to introduce these images at trial

during his defense.

4. The Government believes that these photographs are irrelevant, prejudicial and inadmissible.

5. The Federal Rules of Evidence, Rule 405(a) permits the defendant to prove his relevant good character only by reputation or opinion evidence. He may not do so by prior specific good acts. *See* Government of Virgin Islands v. Grant, 775 F.2d 508, 512 (3d Cir. 1985) (fact that defendant never arrested inadmissible, citing Weinstein's Federal Evidence).

WHEREFORE, the Government respectfully requests that the Court Order that the proposed defense exhibits are inadmissible.

Respectfully submitted;

THOMAS A. MARINO
UNITED STATES ATTORNEY

S/ Todd K. Hinkley
Todd K. Hinkley
Assistant U.S. Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, 2006, I caused the Motion in Limine to be filed via ECF and that Patrick Casey, Esquire, attorney for Defendant, is a Filing User under the ECF system. Upon the electronic filing of a pleading or other document, the ECF system will automatically generate and send a Notice of Electronic Filing to all Filing Users associated with this case. Electronic Service by the Court of the Notice of Electronic Filing constitutes service of the filed document and no additional service upon the Filing User is required.

/s/ Teresa Finegan
Teresa Finegan
Legal Assistant